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HOUSE BILL 433

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Donald L. Whitaker

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; REMOVING THE TIME LIMITATION FOR A MUNICIPALITY TO ENACT AN ORDINANCE IMPOSING THE MUNICIPAL CAPITAL OUTLAY GROSS RECEIPTS TAX; REMOVING THE TIME LIMITATION FOR A COUNTY TO ENACT AN ORDINANCE IMPOSING THE COUNTY CAPITAL OUTLAY GROSS RECEIPTS TAX; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-19D-12 NMSA 1978 (being Laws 2001, Chapter 172, Section 1) is amended to read:

"7-19D-12. MUNICIPAL CAPITAL OUTLAY GROSS RECEIPTS TAX--PURPOSES--REFERENDUM.--

A. [~~Prior to July 1, 2005~~] The majority of the members of the governing body of an eligible municipality may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth of one percent of the gross receipts of any

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1 person engaging in business in the municipality for the  
2 privilege of engaging in business. The tax may be imposed in  
3 increments of one-sixteenth of one percent not to exceed an  
4 aggregate rate of one-fourth of one percent.

5 B. The tax imposed pursuant to Subsection A of this  
6 section may be referred to as the "municipal capital outlay  
7 gross receipts tax".

8 C. The governing body, at the time of enacting an  
9 ordinance imposing a rate of tax authorized in Subsection A of  
10 this section, may dedicate the revenue for any municipal  
11 infrastructure purpose, including:

12 (1) the design, construction, acquisition,  
13 improvement, renovation, rehabilitation, equipping or  
14 furnishing of public buildings or facilities, including parking  
15 facilities, the acquisition of land for the public buildings or  
16 facilities and the acquisition or improvement of the grounds  
17 surrounding public buildings or facilities;

18 (2) acquisition, construction or improvement  
19 of water, wastewater or solid waste systems or facilities and  
20 related facilities, including water or sewer lines and storm  
21 sewers and other drainage improvements;

22 (3) acquisition, rehabilitation or improvement  
23 of firefighting equipment;

24 (4) construction, reconstruction or  
25 improvement of municipal streets, alleys, roads or bridges,

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1 including acquisition of rights of way;

2 (5) design, construction, acquisition,  
3 improvement or equipping of airport facilities, including  
4 acquisition of land, easements or rights of way for airport  
5 facilities;

6 (6) acquisition of land for open space, public  
7 parks or public recreational facilities and the design,  
8 acquisition, construction, improvement or equipping of parks  
9 and recreational facilities; and

10 (7) payment of gross receipts tax revenue  
11 bonds issued pursuant to Chapter 3, Article 31 NMSA 1978 for  
12 infrastructure purposes.

13 D. An ordinance imposing the municipal capital  
14 outlay gross receipts tax shall not go into effect until after  
15 an election is held on the question of imposing the tax for the  
16 purpose for which the revenue is dedicated and a majority of  
17 the voters in the municipality voting in the election votes in  
18 favor of imposing the tax. The governing body shall adopt a  
19 resolution calling for an election within seventy-five days of  
20 the date the ordinance is adopted on the question of imposing  
21 the tax. The question shall be submitted to the voters of the  
22 municipality as a separate question at a general election or at  
23 a special election called for that purpose by the governing  
24 body. A special election shall be called, conducted and  
25 canvassed in substantially the same manner as provided by law

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1 for general elections. If a majority of the voters voting on  
2 the question approves the question of imposing the municipal  
3 capital outlay gross receipts tax, then the ordinance shall  
4 become effective in accordance with the provisions of the  
5 Municipal Local Option Gross Receipts Taxes Act. If the  
6 question of imposing the municipal capital outlay gross  
7 receipts tax fails, the governing body shall not again propose  
8 the imposition of the tax for a period of one year from the  
9 date of the election.

10 E. For purposes of this section, "eligible  
11 municipality" means a municipality that has imposed all  
12 increments of the municipal gross receipts tax pursuant to  
13 Section 7-19D-9 NMSA 1978 and all increments of the municipal  
14 infrastructure gross receipts tax pursuant to Section 7-19D-11  
15 NMSA 1978 and has not imposed after January 1, 2001 any  
16 increment of the supplemental municipal gross receipts tax  
17 pursuant to the Supplemental Municipal Gross Receipts Tax Act."

18 Section 2. Section 7-20E-21 NMSA 1978 (being Laws 2001,  
19 Chapter 172, Section 2) is amended to read:

20 "7-20E-21. COUNTY CAPITAL OUTLAY GROSS RECEIPTS TAX--  
21 PURPOSES--REFERENDUM.--

22 A. [~~Prior to July 1, 2005~~] The majority of the  
23 members of the governing body of an eligible county may enact  
24 an ordinance imposing an excise tax at a rate not to exceed  
25 one-fourth of one percent of the gross receipts of any person

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1 engaging in business in the county for the privilege of  
2 engaging in business. The tax may be imposed in increments of  
3 one-sixteenth of one percent not to exceed an aggregate rate of  
4 one-fourth of one percent.

5 B. The tax imposed pursuant to Subsection A of this  
6 section may be referred to as the "county capital outlay gross  
7 receipts tax".

8 C. The governing body, at the time of enacting an  
9 ordinance imposing a rate of tax authorized in Subsection A of  
10 this section, may dedicate the revenue for:

11 (1) the design, construction, acquisition,  
12 improvement, renovation, rehabilitation, equipping or  
13 furnishing of public buildings or facilities, including parking  
14 facilities, the acquisition of land for the public buildings or  
15 facilities and the acquisition or improvement of the grounds  
16 surrounding public buildings or facilities;

17 (2) acquisition, construction or improvement  
18 of water, wastewater or solid waste systems or facilities and  
19 related facilities, including water or sewer lines and storm  
20 sewers and other drainage improvements;

21 (3) design, construction, acquisition,  
22 improvement or equipping of a county jail, juvenile detention  
23 facility or other county correctional facility or multipurpose  
24 regional adult jail or juvenile detention facility;

25 (4) construction, reconstruction or

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1 improvement of roads, streets or bridges, including acquisition  
2 of rights of way;

3 (5) design, construction, acquisition,  
4 improvement or equipping of airport facilities, including  
5 acquisition of land, easements or rights of way for airport  
6 facilities;

7 (6) acquisition of land for open space, public  
8 parks or public recreational facilities and the design,  
9 acquisition, construction, improvement or equipping of parks  
10 and recreational facilities; and

11 (7) payment of gross receipts tax revenue  
12 bonds issued pursuant to Chapter 4, Article 62 NMSA 1978 for  
13 infrastructure purposes.

14 D. An ordinance imposing the county capital outlay  
15 gross receipts tax shall not go into effect until after an  
16 election is held on the question of imposing the tax for the  
17 purpose for which the revenue is dedicated and a majority of  
18 the voters in the county voting in the election votes in favor  
19 of imposing the tax. The governing body shall adopt a  
20 resolution calling for an election within seventy-five days of  
21 the date the ordinance is adopted on the question of imposing  
22 the tax. The question shall be submitted to the voters of the  
23 county as a separate question at a general election or at a  
24 special election called for that purpose by the governing body.  
25 A special election shall be called, conducted and canvassed in

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1 substantially the same manner as provided by law for general  
2 elections. If a majority of the voters voting on the question  
3 approves the question of imposing the county capital outlay  
4 gross receipts tax, then the ordinance shall become effective  
5 in accordance with the provisions of the County Local Option  
6 Gross Receipts Taxes Act. If the question of imposing the  
7 county capital outlay gross receipts tax fails, the governing  
8 body shall not again propose the imposition of the tax for a  
9 period of one year from the date of the election.

10 E. For purposes of this section, "eligible county"  
11 means a county that has imposed all increments of the county  
12 gross receipts tax pursuant to Section 7-20E-9 NMSA 1978 and  
13 all increments of the county infrastructure gross receipts tax  
14 pursuant to Section 7-20E-19 NMSA 1978."

15 Section 3. EMERGENCY.--It is necessary for the public  
16 peace, health and safety that this act take effect immediately.